

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

In re:	§	
Randy Sellers, Sr.	§	CASE NO. 16-34365-H4-13
Debtor	§	Chapter 13

**MOTION TO WAIVE REQUIREMENT TO FILE UNIFORM PLAN
MODIFICATION FORM AND TRUSTEE'S MOTION TO MODIFY PLAN**

NOTICE PURSUANT TO LOCAL RULE 9013

THIS MOTION SEEKS AN ORDER THAT MAY ADVERSELY AFFECT YOU. IF YOU OPPOSE THIS MOTION, YOU SHOULD IMMEDIATELY CONTACT THE MOVING PARTY TO RESOLVE THE DISPUTE. IF YOU AND THE MOVING PARTY CANNOT AGREE, YOU MUST FILE A RESPONSE AND SEND A COPY TO THE MOVING PARTY. YOU MUST FILE AND SERVE YOUR RESPONSE WITHIN 21 DAYS OF THE DATE THIS MOTION WAS SERVED ON YOU. YOUR RESPONSE MUST STATE WHY THE MOTION SHOULD NOT BE GRANTED. IF YOU DO NOT FILE A TIMELY RESPONSE, THE RELIEF MAY BE GRANTED WITHOUT FURTHER NOTICE TO YOU. IF YOU OPPOSE THE MOTION AND HAVE NOT REACHED AN AGREEMENT, YOU MUST ATTEND THE HEARING. UNLESS THE PARTIES AGREE OTHERWISE, THE COURT MAY CONSIDER EVIDENCE AT THE HEARING AND MAY DECIDE THE MOTION AT THE HEARING.

REPRESENTED PARTIES SHOULD ACT THROUGH THEIR ATTORNEY.

IF A TIMELY RESPONSE IS FILED, A HEARING WILL BE HELD ON JUNE 4, 2018, AT 10:00 AM IN THE U.S. COURTHOUSE, 515 RUSK, COURTROOM 600, 6TH FLOOR HOUSTON, TEXAS.

TO THE HONORABLE U.S. BANKRUPTCY JUDGE:

David G. Peake, Chapter 13 Trustee, pursuant to 11 U.S.C. §1329, files this motion seeking an order modifying the Chapter 13 Plan of the Debtor and would show the Court the following:

1. The Trustee moves the Court to waive the requirement of Local Rule 3015-1(c) that requires the filing of a proposed modified plan using the official forms on the Court's website. The Trustee's requested modification does not require the use of a form plan as the modification seeks only to remove a creditor, change the treatment of a creditor from secured to unsecured, increase the plan payment, increase or decrease the plan base,

or re-distribute a creditor refund. The Trustee asserts that no party will be prejudiced by the waiver of the requirement of the rule since the proposed modification is limited to the terms set forth in the motion to modify.

2. A Chapter 13 voluntary bankruptcy petition was filed by Randy Sellers, Sr. (“Debtor”) on September 1, 2016. Debtor’s Chapter 13 Plan, was confirmed on December 13, 2016.

3. The Trustee files this Motion to Modify pursuant to Bankruptcy Code Section 1329 to increase Debtor’s plan base by \$4,216.71 to \$266,777.71.

4. The Debtor recently received a bonus in the amount of \$4,216.71 which was sent to the Trustee by the Debtor’s employer. The additional funds will enable an increased distribution to unsecured creditors.

Wherefore, the Trustee requests this Court to enter an Order modifying the plan in accordance with the allegations of this motion.

Respectfully submitted,

David G. Peake, Chapter 13 Trustee

By: /s/ Richard W. Aurich, Jr.
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Houston, TX 77096
Tel: 713-283-5400
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Attorney for David G. Peake, Chapter 13 Trustee

CERTIFICATE OF SERVICE

A copy of foregoing Motion to Modify was served upon all creditors and parties in interest via BNC and/or CM/ECF electronic delivery on or about April 30, 2018:

Randy Sellers, Sr.
PO Box 70
Channelview, TX 775430

BNC

Kenneth A. Keeling
3310 Katy Fwy, Ste 200
Houston, TX 77007

CM/ECF electronic delivery

/s/ Richard W. Aurich, Jr.